



STATE BOARD OF LAND COMMISSIONERS

Philip E. Batt, Governor and President of the Board
Pete T. Cenarrusa, Secretary of State
Alan G. Lance, Attorney General
J. D. Williams, State Controller
Anne C. Fox, Superintendent of Public Instruction

Stanley F. Hamilton, Secretary to the Board

MINUTES REGULAR LAND BOARD MEETING May 12, 1998 9:00 AM

The regular meeting of the Idaho State Board of Land Commissioners was held on May 12, 1998, in Boise Idaho. The Honorable Philip E. Batt presided. The following members were present.

Honorable Secretary of State Pete T. Cenarrusa
Honorable Attorney General Alan G. Lance
Honorable State Controller J.D. Williams
Honorable Superintendent of Public Instruction Anne C. Fox

Secretary to the Board Stanley F. Hamilton

CONSENT AGENDA

The following consent agenda was approved in its entirety upon a motion by Superintendent Fox and seconded by State Controller Williams. The motion carried on a vote of 5-0.

1. This agenda item requested approval of official transactions as follows:

Bureau of Range Management and Surface Leasing for Cropland, Grazing, Cottage Site.
Miscellaneous, and Submerged Land Leases for the month of March 1998
Bureau of Real Estate, Easement Section for March 1998
Bureau of Real Estate, Land Sale Section for March 1998
Timber Sales for the period March 26, 1998 through April 24, 1998

2. This agenda item presented applications for addition to the qualified bidders list, timber sales as follows:

Wayne Pate'	Kaz Logging, Inc.	DA Logging
P.O. Box 372	1156 Rainbow	P.O. Box 381
Riggins, ID 83549	Coeur d'Alene, ID 83814	Hayden Lake, ID 83835
Staffed by Ron Litz, Chief, Bureau of Forest Management		

3. This agenda item requested approval of timber sales as follows:

- | | | |
|-----------------------|-----------|-----------|
| A. Middle Thin | CR-1-0289 | 2,100 MBF |
| B. Caribou Flats | CR-1-0299 | 4,400 MBF |
| C. Divide Saddle Pole | CR-4-0659 | 1,315 MBF |
- Staffed by Ron Litz, Chief, Bureau of Forest Management

4. This agenda item requested an extension of 5-year non-use clause on Easement No. 5755 issued to City of McCall.
Staffed by Perry Whittaker, Chief, Bureau of Real Estate

Governor Batt asked for an explanation of this agenda item. Director Hamilton stated that whenever the department issues a term easement a 5-year non-use termination clause is in that easement. In this case the 5 years has gone past and they have not used it for the designated use and they are requesting an extension of another 5 years. The department is not opposed to this request.

REGULAR AGENDA

5. Director's Report

Director Hamilton presented the monthly Director's report. He provided a summary of the fiscal 1998 year-to-date Principal Fund balances and Revenue Composition and a graph regarding the Idaho Department of Lands contribution impact to the permanent endowment.

6. Reconveyance to BLM of 80 acre parcel at Idaho State Correctional Institution to remove a reversionary clause.
Presented by Perry Whittaker, Chief, Bureau of Real Estate and
Wayne Meuleman, Attorney for the Idaho State Building Authority

This is a request for a reconveyance of an 80-acre tract of land to Bureau of Land Management (BLM) so that BLM can issue a new patent to the State. Perry Whittaker presented the background information and Mr. Wayne Meuleman, Attorney for the Idaho State Building Authority was available for questions.

This property currently is to be used for penitentiary purposes only. The state and BLM have agreed to take appropriate action to remove the reversionary restriction.

By copy of a letter dated March 31, 1998, the BLM has indicated its willingness to provide an unrestricted conveyance of the total 80-acre parcel for the sum of \$40,000 as determined by an appraisal completed by the BLM. The Authority can pay the \$40,000 to the BLM from contingency funds available from bond proceeds.

The state would also be required to deed the 80-acre parcel to the U.S. and then the BLM would issue a new patent without the reversionary clause for Idaho State Penitentiary purposes only. The recommendation was that the Idaho Department of Lands issue a certificate of title, that the Board of Correction issue a deed to the United States. The Authority will pay \$40,000 to the BLM in return for a new patent without a reversionary clause.

Terry Coffin, Deputy Attorney General, stated that this is a legal technicality issue. The reason it is before the Land Board is to remove the reversionary clause if the property is not used for penitentiary purposes. Also, for an additional \$50.00 the mineral rights will be included. This transaction, as a result of a 1997 act passed by the Legislature, will eliminate any question that this property is properly held by the Department of Corrections.

The motion was made by Attorney General Lance and seconded by Secretary of State Cenarrusa to approve the recommendation. The motion carried on a vote of 5-0.

7. Land Board Cottage Site Sub-committee report and recommendations
Presented by Cottage Site Sub-committee

Bryce Taylor provided the Land Board with a brief background and the co-chairs, State Controller Williams and Superintendent Anne Fox provided their report.

The Land Board subcommittee, the department, lessees and legal counsel met on Wednesday, May 6, 1998. This was a follow-up to a meeting that the department had with the lessees in trying to resolve some issues.

Mr. Taylor said that the subcommittee, lessees and the department agreed that it is a bit premature to try to finalize an appraisal appeal process at this time. We need to see what the appraisal brings and that may clarify some of the issues that need to be appealed. He stated that the group is asking that the appraisal be completed. Once this is completed, the lessees, the department and the subcommittee will continue to work out the parameters of the appeal process. This would then be brought back for Land Board approval later this fall.

Mr. Taylor said the subcommittee, lessees and the department did agree on the parameters for hardship claims. Essentially, any lessee that is forced to sell, due to escalating rental, could ask for deferment of increases in rent after this 1998 year. All lessees did pay their rent this year. It was stated that this could last for three years, however the Land Board could address additional extensions on a case-by-case basis.

The subcommittee and the lessees agreed that 13 lots would be appraised at Payette Lake. Out of that 5 lots would be lake front properties and 8 lots would be second tier. At Priest Lake, 15 lots would be appraised. After this appraisal is done and the difficulties have been worked out, the department staff would extrapolate those values to the remaining lots.

The lessees have recommended an open house be held regarding the appraisals, where lessees can visit with the appraiser. Hopefully this will assist in resolving issues. This will be set up after the appraisal is complete.

The department believes MAI appraisers are higher qualified and would do a better job. The subcommittee agreed. As this would be considerably more expensive, the department will pay a larger percentage of the cost on the appraisal.

Rental for 1999 was discussed and the subcommittee is recommending no increase for the 1999 rental because appraisals are not completed. The recommendations of the subcommittee are as follows:

1. Continue to develop an appraisal appeal process when the appraisals are complete.
2. Approve the parameters for hardship claims per Attachment #1 to the memorandum.
3. Approve the appraisal contract(s) for thirteen lots at Payette Lake and fifteen lots at Priest Lake as currently bid.
4. Approve that rent remains at the 1998 interim rate for 1999.

Attorney General Lance asked what the interest rate would be on deferred rental payments. Mr. Taylor said this would be the board rate and it varies from month to month. It follows the commercial real estate rate, however, the department does lag about 30 days. Currently it is about 7 ¼%. This is board policy.

Governor Batt stated he could not go along with the recommendation of the subcommittee. He stated that he did appreciate the work that was done and felt it was nice that the hardship cases were being considered. He stated that he felt that freezing rents in place for this year does not carry out the charge to maximize the returns on these properties.

Controller Williams stated that it was evident to the subcommittee that a very clear factual determination of values was needed. This was started last October and has been an exhausting process. Without this process being complete, there is no basis to make a recommendation on raising rents.

Secretary of State Cenarrusa said if the lessees would take some increase, they would not have a large increase all at once if the appraisals come in higher than they anticipate.

Attorney General Lance requested unanimous consent to defer this item to the next meeting in order for the Land Board members to fully reflect on this issue. There were no objections.

8. Dismissal of State v. IFI – Implementation of settlement agreement – Issuance of quitclaim deed to Garden City.

Presented by Steven Schuster, Deputy Attorney General

Jay Biladeau presented the background information and Deputy Attorney General Steven Schuster was available to answer any questions regarding legal ramifications. This agenda item requests approval of quitclaim deed to the City of Garden City to consummate Settlement Agreement in *State v. Idaho Forest Industries, Inc. and Evans Brothers Construction, Inc.*, Ada County Case No. 97796.

A settlement agreement, approved by the Land Board in July 1996, was entered into by the parties and approved by the court. That agreement called for portions of the greenbelt to be repaired, portions completed and for the greenbelt to be transferred to Garden City. At this time the conditions of the settlement have been met and Garden City has asked for the property to be transferred.

Mr. Schuster said he appreciated the cooperation of Steve Thomas, counsel for IFI and John Evans, who was one of the local managers. They worked very hard to get this process implemented.

The department recommended that the Board approve transfer of the subject land to the City of Garden City in accordance with the terms of the quitclaim deed.

The motion was made by Superintendent Fox and seconded by Secretary of State Cenarrusa to approve the recommendation of the department. The motion carried on a vote of 5-0.

9. Appeal of conflict grazing lease auctions

A) G-6317 JR Simplot Rev. Trust / John B. Urquidi

B) G-6493 M & L Investment / J & J Ranches

Presented by Tracy Behrens, Range Management Specialist

Tracy Behrens presented background information. At the January 13, 1998 regular Land Board meeting, the Board reviewed the applications that were submitted for 1997 expiring grazing leases G-6317 and G-6493. The following applicants were determined to be qualified:

G-6317; J.R. Simplot Self-Declaration of Revocable Trust
d/b/a Dick Shooter Cattle Co. (former lessee)
John B. Urquidi (conflictor)

G-6493: ML Investment Company (former lessee)
J&J Ranches (conflictor)

The department held the auctions for these leases at the IDL Southwest Area office on March 10, 1998. At the auction, for lease G-6317 the high bid of \$4,000 was submitted by Dick Shooter Cattle Co. and for lease G-6493 the high bid of \$3,050 was submitted by J&J Ranches.

On March 30, 1998, an appeal of both auctions was filed by J&J Ranches and John B. Urquidi (J&J/Urquidi). A copy of the appeal was provided to Dick Shooter Cattle Co. and ML Investment (Dick Shooter/ML), and they were given until April 15, 1998 to file a rebuttal to the appeal. The copy of the rebuttal was provided to J&J/Urquidi, and they were given until April 24, 1998 to file a counter statement.

The appeal filed by Mr. Urquidi was based on the claim that Dick Shooter and ML were not properly represented to bid on the two scheduled auctions. Department staff thoroughly reviewed information that was presented concerning the appeal of these grazing lease auctions.

The need for a proxy at a grazing lease auction is addressed in Idaho Code 58-310 and in department Operations Memorandum 1522. The code states that if an applicant fails to appear in person or by proxy at a scheduled auction, the auction may proceed without them. OM 1522 states that if the applicant is to be represented by a proxy, written authorization must be signed by the applicant and presented at the time of Auction. The department considered Mr. Bachman to be an authorized representative of both Dick Shooter Cattle Co. and ML Investment and he has bid for state leases before as a representative for Dick Shooter & ML Investment. The department recommended that the Board reject the appeal filed by J&J/Urquidi and that the new grazing leases be issued to the high bidder in each of the referenced lease auctions. The specific lease recommendations are as follows:

G-6317: high bid of \$4,000 submitted by Dick Shooter Cattle Co.

G-6493: high bid of \$3,050 submitted by J&J Ranches.

Attorney General Lance said the state's representative had no question in his/her mind that Mr. Bachman was representing these entities. Mr. Behrens said that was correct.

The motion was made by Attorney General Lance and seconded by State Controller Williams to approve the recommendation. The motion carried on a vote of 5-0.

The motion was made by State Controller Williams and seconded by Superintendent Fox to move into Executive Session. The motion carried on a vote of 5-0.

EXECUTIVE SESSION

The following agenda items were discussed in Executive Session.

10. PRP Agreement between the State of Idaho and ASARCO (Triumph Mine)
Presented by Nick Crema, Deputy Attorney General
11. Consider potential litigation on a grazing trespass
Presented by Nick Crema, Deputy Attorney General
12. To consider the acquisition, by land exchange, of a parcel of privately owned property
Presented by Perry Whittaker, Chief, Bureau of Real Estate

Clive Strong, Division Chief, Natural Resources Division, Office of the Attorney General presented two additional items in Executive Session. They were:

1. An updated report on the Erickson Case – Informational item #18.
2. Information regarding a lawsuit brought by the Greater Owyhee Legal Defense Fund in regard to the proposed training range in the Owyhee's.

The Board returned to regular session at 11:50 AM.

Attorney General Lance noted that there was no action taken on any matters during the Executive Session.

A motion was made by Controller Williams and seconded by Secretary of State Cenarrusa to give conceptual approval to enter into a three-way land exchange agreement with Kristy Pigeon and U.S. Bank for Ms. Pigeon to acquire title to her riding stable operation near Hailey, which has an appraised value of \$571,000. That the department negotiate and make an offer to U.S. Bank to purchase/exchange the U.S. Bank building at 5th and Washington for \$500,000 and with Ms. Pigeon's resources and another leasehold lot (to be determined), use the difference to remodel the U.S. Bank Building. The cost to remodel the building will be approximately \$106,000. The motion carried on a vote of 5-0.

A motion was made by Attorney General Lance and seconded by Superintendent Fox to give legal staff the authority to proceed on agenda item #11 relative to a quiet title action on the previously discussed 40-acre parcels. The motion carried on a vote of 5-0.

INFORMATION AGENDA

The information agenda is informational items only and requires no action.

13. Timber sale activity report
14. Interest rate update
15. Triumph Mine update
16. 1998 Lease Conflicts
17. Quarterly Endowment Fund Report
18. Report update on Erickson Case

There being no further business to be brought before the Board, the meeting adjourned at 12:00 noon.

IDAHO STATE BOARD OF LAND COMMISSIONERS

A handwritten signature in cursive script, appearing to read "Philip E. Nott", written over a horizontal line.

President, State Board of Land Commissioners and
Governor of the State of Idaho

A handwritten signature in cursive script, appearing to read "Pete T. Cenarrusa", written over a horizontal line.

Pete T. Cenarrusa
Secretary of State



A handwritten signature in cursive script, appearing to read "Stanley F. Hamilton", written over a horizontal line.

Stanley F. Hamilton
Director, Idaho Department of Lands